

POST HEARING SET

Washington Paper's
Plans Linked to
Decision Here

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Federal District Judge Gerhard A. Gesell has scheduled a hearing Monday morning on the Justice Department's request for an injunction to stop the publication by The Washington Post of a series of articles drawing on secret Pentagon documents on Vietnam.

Early this morning, the United States Court of Appeals temporarily restrained The Post from continuing its series, ruling in a 2-1 decision that the articles might jeopardize national security.

The first two articles in The Post series appeared in the Friday and Saturday issues.

Prepared to Argue Case

Benjamin C. Bradlee, executive editor of The Post, said today that the newspaper was preparing to argue the merits of the Justice Department's position about the threat posed to national security if the articles continue.

"We are preparing to litigate the matter fully before the District Court," Mr. Bradlee said in a statement. "But we have not made a final decision whether to appeal to the Supreme Court."

Post executives said that their legal decisions would be weighed in terms of their relevance to the decision reached in New York by District Judge Murray I. Gurfein to deny an injunction to halt a similar series of articles in The New York Times.

Valid Concern Seen

Mr. Bradlee said that The Post was also considering the publication in its Sunday issues of an article written by members of its staff on the basis of Pentagon documents already made public by The Times

The Post. He said no final decision had been made by The Post's lawyers whether this would violate the Appeals Court's ruling.

Judges Spottswood Robinson and Roger Robb of the District of Columbia Circuit Court of Appeals ruled, as the second of the articles in The Post series was published, that the Justice Department had a valid concern about the possible use of classified information that could "prejudice the defense interests of the United States."

Judge J. Skelly Wright dissented, however, and began research on a written argument supporting his position.

Judge Gesell ruled that he had not received, in a brief hearing, any "precise information" that would substantiate the Government's case.

Judge Gesell ruled that the Government had no authority to exert prior restraint on The Post but should, instead, initiate criminal prosecution if it believed that the newspaper had violated security laws.

'The Only Remedy'

"This is the only remedy our Constitution or the Congress has provided," Judge Gesell had stated in a three-page opinion.

The Post had been considering three courses of action that might be influenced by the decision in The Times case.

One possibility was to appeal the decision of Judges Robinson and Robb to Chief Justice Warren E. Burger, who is technically the Circuit Justice for the District of Columbia. Mr. Burger could affirm or overrule the Appeals Court decision, subject to confirmation later by the full Supreme Court.

A second possibility was to

ask the Court of Appeals to rehear the Post case on the basis that a decision to lift the restraining order against The Times would cause irreparable injury to The Post by permitting a competitor to proceed with a similar series of articles.

Could Forgo Appeal

The third course was to forgo an appeal on the restraining order and prepare to argue on the merits the Government request for an injunction. The appeals court set a deadline of 5 P.M. Monday for that determination by Judge Gesell.

As the newspaper's executives considered the possibilities, senior editors and staff members were congratulating one another in The Post newsroom on the second article in the series, by Murrey Marder.

One of the topics being discussed by Mr. Marder, Katherine Graham, the Post president and publisher, Chalmers M. Roberts, its senior diplomatic correspondent, and others was whether the public understood the issues involved in the court proceeding.

The Post proved itself prophetic in another sense. On the facade of the newspaper's downtown office building there has been for sometime, a large advertising poster that depicts a copy of the paper and these words: "Commands Attention at the Pentagon."